

STATE OF RHODE ISLAND

KENT, SC.

SUPERIOR COURT

(FILED: July 14, 2023)

HELEN REARDON

*Plaintiff,*

v.

EMPLOYEES' RETIREMENT  
SYSTEM OF RHODE ISLAND

*Defendant/Registrant*

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C.A. No. KC-2021-0784

**DECISION**

**VAN COUYGHEN, J.** The case before this Court involves Helen Reardon's (Plaintiff) appeal of the decision of the Employee's Retirement System of the State of Rhode Island (Retirement Board) which denied Plaintiff's claim for an accidental disability retirement pension on July 14, 2021. Plaintiff filed her Disability Retirement Application on July 29, 2019, stating that on July 28, 2015 she was stuck by a needle in the course of her duties as a dental assistant, which eventually caused her to be incapable of continuing to work. The Retirement Board asserts that it relied upon the independent competent medical reports of Naureen Attiullah, M.D. and Thomas Morgan, M.D. in making its determination. The Plaintiff argues that the Retirement Board should have relied upon the medical opinion of Ronald Stewart, M.D. in making its determination, not Dr. Attiullah and Dr. Morgan. Further, Plaintiff argues that she is entitled to accidental disability based upon a Memorandum of Agreement between Plaintiff and the State of Rhode Island, which was filed with the Workers' Compensation Court. For the reasons contained herein, Plaintiff's appeal is denied, and the decision of the Retirement Board is affirmed. Jurisdiction is pursuant to G.L. 1956 § 42-35-15(g) (Administrative Procedures Act).

## I

### Facts and Travel

On July 29, 2019, Plaintiff, a dental assistant with the Department of Human Services, submitted her Application for Accidental Disability Retirement and/or Ordinary Disability Retirement (Application). The Plaintiff asserts that on July 28, 2015 she sustained an injury to her right thumb after being stuck by a needle when attempting to discard it. *See* Designation of Record of Administrative Appeal (DRAA) at 00295-00296. Plaintiff asserts that the needle stick incident caused her to bleed inside her glove. *Id.* Additionally, Plaintiff avers that she has permanent and disabling conditions caused by the needle stick incident including: “PTSD, migraines, cognitive issues, and neurological issues.” *Id.* at 00283-00294.

In connection with her Application, Plaintiff submitted an Employer’s Disability Statement completed by Karen A. Dutra, Human Resources Analyst. *See id.* at 00297-00300. Ms. Dutra indicated that based upon all the medical information provided to her, she believed that Plaintiff is unable to perform her duties. *Id.* at 00298. Also submitted with the Employer’s Disability Statement was a Psychological Report prepared by Francis R. Sparadeo, Ph.D., a psychologist, regarding an examination conducted on November 26, 2018. *See id.* at 00302-00309.

Dr. Sparadeo’s report detailed that “while working as a dental hygienist on 07/28/2015 [Plaintiff] was accidentally stuck by a needle that was left out by the dentist following its use” and that Plaintiff indicates the HIV protocol gave her “severe side effects.” *See id.* at 00302. Dr. Sparadeo also stated that “[i]t is important to note that in February 2015 (prior to the incident with the needle prick) [Plaintiff] had been in a motor vehicle accident and suffered from a concussion and experienced post-concussion syndrome. [Plaintiff] states that as a result of the concussion she developed ringing in her ears and she has hypersensitivity to light and sound.” *See id.* Further,

Plaintiff indicated that Plaintiff “made the decision to discontinue all medications and she state[d] that she has recovered dramatically and no longer constantly feels sick and compromised . . . [and that she] wishes to return to her original job.” *See id.* at 00308. Dr. Sparadeo concluded that “[i]n my opinion, within a reasonable degree of psychological certainty, this patient is capable of return to her position in the dental service. She appears to be highly motivated to return to work and demonstrate her competence.” *See id.*

Plaintiff’s personal physician, Keith Brecher, M.D., noted on the Applicant’s Physician’s Statement for Accidental Disability form that Plaintiff is disabled due to post-traumatic migraines and PTSD, which were caused by the needle stick incident and her subsequent treatment. *See id.* at 00428. On August 9, 2016, Dr. Brecher indicated that Plaintiff had been in a non-work-related automobile accident in February 2015 and opined that the needle stick incident and subsequent treatment in July 2015 “may have compounded headaches caused by a concussion from [the] car accident[.]” *Id.* at 00478. However, on January 15, 2019, Dr. Brecher reported that Plaintiff’s PTSD symptoms related to the needle incident had “improved to the extent she is able to resume work,” and that Plaintiff’s headaches had improved with medication. *See id.* at 00446.

Following receipt of Plaintiff’s Application, the Retirement Board appointed, and Plaintiff was examined by, three independent medical examiners: Naureen Attiullah, M.D., Thomas Morgan, M.D., and Ronald Stewart, M.D.

Dr. Attiullah, a psychiatrist, indicated that the Plaintiff has a long pre-existing medical history of depression and migraines, dating back to at least March 2012. *Id.* at 00414-00415. Further, regarding Plaintiff’s alleged PTSD, Dr. Attiullah noted that in June and July of 2018, Plaintiff reported that she was much better, asked to return to work, and did not exhibit any avoidance symptoms toward her previous job as a dental assistant. *Id.* at 00414-00415. Upon

discharge in October 2018, the Arrigan Rehabilitation Center found that Plaintiff no longer met the criteria for PTSD. *Id.* at 00641. Ultimately, Dr. Attiullah believed that if Plaintiff “had PTSD from the needle stick injury it was resolved in 2018.” *Id.* at 00414.

Dr. Morgan, a neurologist, opined that Plaintiff’s attempt to relate her headaches to the HIV medication following the needle stick incident was “inconsistent with her past history of migraine headaches.” *Id.* at 00423. Regarding Plaintiff’s alleged PTSD, Dr. Morgan stated that she did not meet any of the diagnostic criteria for PTSD as she does not have recurrent dreams, avoidance reaction, or lack of emotion. *Id.* at 00426.

The third physician, Dr. Stewart, a psychiatrist, concurred with Plaintiff’s previous providers on her diagnosis of “Anxiety Disorder, Major Depression, and Post Traumatic Stress Disorder.” *Id.* at 00400. Unlike Dr. Attiullah and Dr. Morgan, Dr. Stewart opined that Plaintiff’s past traumas have not been a precipitating factor on her current state of physical and emotional distress. *Id.* To the contrary, Dr. Stewart stated that Plaintiff’s conditions were “exacerbated by her workplace incident and subsequent stressors.” *Id.* Thus, Dr. Stewart opined that Plaintiff is permanently incapable and disabled from performing any of the job duties required as a dental assistant or any other job, including clerical, as a result of the needle stick incident. *Id.* at 00401.

Ultimately, based upon the medical reports of Dr. Attiullah, Dr. Morgan, and the record before the Retirement Board, the Retirement Board found that Plaintiff is not physically or mentally incapacitated as a natural and proximate result of an accident while in the performance of duty as required by G.L. 1956 § 36-10-14(a). *See* DRAA at 005-0013. Plaintiff’s appeal ensued pursuant to the Administrative Procedures Act.

## II

### Standard of Review

Section 42-35-15(g) of the Administrative Procedures Act (APA) establishes this Court's appellate jurisdiction to review final decisions issued by state administrative agencies. *See McAninch v. State of R.I. Department of Labor & Training*, 64 A.3d 84, 87 (R.I. 2013). Pursuant to § 42-35-15(g),

“[t]he court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the agency;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Sec. 42-35-15(g).

In reviewing an administrative agency's decision, “[q]uestions of law determined by the administrative agency are not binding upon [the court] and may be freely reviewed to determine the relevant law and its applicability to the facts presented in the record.” *Department of Environmental Management v. State Labor Relations Board.*, 799 A.2d 274, 277 (R.I. 2002) (citing *Carmody v. R.I. Conflict of Interest Commission.*, 509 A.2d 453, 458 (R.I. 1986)). Notwithstanding this Court's authority to afford great deference to an administrative agency's factual findings, “‘questions of law—including statutory interpretation—are reviewed *de novo*.’” *McAninch*, 64 A.3d at 86 (quoting *Heritage Healthcare Services v. Marques*, 14 A.3d 932, 936 (R.I. 2011)). This Court can vacate an administrative decision based on errors of law. *R.I. Temps*,

*Inc. v. Department of Labor & Training, Board of Review*, 749 A.2d 1121, 1125 (R.I. 2000) (quoting *Environmental Scientific Corp. v. Durfee*, 621 A.2d 200, 208 (R.I. 1993)). Furthermore, when a question of law involves an issue of statutory interpretation, the Court’s “ultimate goal is to give effect to the purpose of the act as intended by the Legislature.” *McAninch*, 64 A.3d at 86 (quoting *Labor Ready Northeast, Inc. v. McConaghy*, 849 A.2d 340, 344 (R.I. 2004)).

Conversely, when considering questions of fact, the Court “may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are clearly erroneous.” *Guarino v. Department of Social Welfare*, 122 R.I. 583, 588, 410 A.2d 425, 428 (1980) (citing § 42-35-15(g)(5)). Further, the Court cannot “weigh the evidence [or] pass upon the credibility of witnesses [or] substitute its findings of fact for those made at the administrative level.” *E. Grossman & Sons, Inc. v. Rocha*, 118 R.I. 276, 285, 373 A.2d 496, 501 (1977). Rather, § 42-35-15(g) limits the Court to an examination of the record in order to ascertain whether the agency’s decision is supported legally by competent and substantial evidence. *See Center for Behavioral Health, Rhode Island, Inc. v. Barros*, 710 A.2d 680, 684 (R.I. 1998). Legally competent evidence is such “relevant evidence that a reasonable mind might accept as adequate to support a conclusion [and] means an amount more than a scintilla but less than a preponderance.” *Town of Burrillville v. R.I. State Labor Relations Board*, 921 A.2d 113, 118 (R.I. 2007) (internal quotation omitted).

### **III**

#### **Analysis**

The criteria for granting an Accidental Disability Retirement Pension to a State of Rhode Island employee are set forth in § 36-10-14, which provides in part:

- (a) Medical examination of an active member for accidental disability and investigation of all statements and certificates by him or her or in his or her behalf

in connection therewith shall be made upon the application of the head of the department in which the member is employed or upon application of the member, or of a person acting in his or her behalf, stating that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident while in the performance of duty, and certify the definite time, place, and conditions of the duty performed by the member resulting in the alleged disability, and that the alleged disability is not the result of willful negligence or misconduct on the part of the member, and is not the result of age or length of service, and that the member should, therefore, be retired.

(b) The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the members present disability and shall be accompanied by an accident report and a physicians report certifying to the disability; provided that if the member was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the application shall be made within the later of five (5) years of the alleged accident or three (3) years of the reinjury or aggravation. The application may also state the member is permanently and totally disabled from any employment.

(c) If a medical examination conducted by three (3) physicians engaged by the retirement board and such investigation as the retirement board may desire to make shall show that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and that the disability is not the result of willful negligence or misconduct on the part of the member, and is not the result of age or length of service, and that the member has not attained the age of sixty-five (65), and that the member should be retired, the physicians who conducted the examination shall so certify to the retirement board stating the time, place, and conditions of service performed by the member resulting in the disability and the retirement board may grant the member an accidental disability benefit.

Regulation 120 RICR 00-00-1.9(D), entitled “Statutory Standard for Ordinary and Accidental Disability,” also requires that for a State of Rhode Island employee to be entitled to an accidental disability retirement:

[T]he Disability Committee must make a determination that the applicant is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident sustained while in the performance of duty, that the disability is not the result of . . . age or length of service, and that the member has not yet attained the age of sixty-five (65). The applicant must [certify] the definite time, place, and conditions of the duty performed by the member and the incident resulting in the alleged disability for the member to be eligible for an Accidental Disability Pension. *See* 120 RICR 00-00-1.9(D)(3).

Proximate cause is a question of fact. *Yankee v. LeBlanc*, 819 A.2d 1277, 1281 (R.I. 2003). In *Pierce v. Providence Retirement Board*, 15 A.3d 957, 964 (R.I. 2011), the Rhode Island Supreme Court found that in the context of disability retirement, “‘proximate cause,’ requires a factual finding that the ‘harm would not have occurred but for the [accident] and that the harm [was a] natural and probable consequence of the [accident].” *Pierce*, 15 A.3d at 964 (quoting *DiPetrillo v. Dow Chemical Co.*, 729 A.2d 677, 692-93 (R.I. 1999)). The Rhode Island Supreme Court further recognized that the term “natural” connotes the “consequences which are normal, not extraordinary, [and] not surprising in the light of ordinary experience. *Pierce*, 15 A.3d at 964 (internal quotation omitted). “Effectively, ‘proximate cause is a more exacting standard than simple ‘but for’ causation.”” *See id.* (quoting *State v. Lead Industries Association, Inc.*, 951 A.2d 428, 451 (R.I. 2008)).

In accordance with § 36-10-14(c), Plaintiff was examined by three independent medical examiners: Dr. Attiullah, Dr. Morgan, and Dr. Stewart. In coming to its determination that the needle stick incident did not proximately cause Plaintiff’s injuries, the Retirement Board relied on the record before it and the independent medical examination reports of Dr. Attiullah and Dr. Morgan. *See* DRAA at 0012-0013.

Specifically, the Retirement Board relied upon Dr. Attiullah’s finding that there was no medical evidence to corroborate Plaintiff’s claims that her alleged depression, migraines, or PTSD are the proximate result of the needle stick incident at work. *Id.* Dr. Attiullah indicated that Plaintiff had a long pre-existing medical history of such conditions dating back to 2012 and that PTSD from the incident had been resolved as of 2018. *Id.* at 00414-00415.

Similarly, Dr. Morgan concluded that Plaintiff’s injuries were not proximately caused by the needle stick incident based upon her past medical history and her failure to meet the diagnostic

criteria for PTSD. *Id.* at 00425 (Plaintiff’s “current migraine headaches, anxiety and depression are not a result of her work injury incident of 07/28/15”).

The independent medical reports of Dr. Attiullah and Dr. Morgan constitute legally competent evidence supporting the Retirement Board’s decision as the reports are medical evaluations conducted by independent medical examiners, which are based on a reasoned analysis of Plaintiff’s past medical history and diagnostic criteria for her injuries. *See Starnino v. Employee’s Retirement System of the City of Providence*, 244 A.3d 538, 543 (R.I. 2021) (holding that a retirement board “may rely on the evaluation of one independent medical examiner so long as its decision is based on a reasoned analysis of the evidence”).

Although Plaintiff’s own physician, Dr. Brecher, noted on the Applicant’s Physician’s Statement for Accidental Disability form that Plaintiff is disabled due to post-traumatic migraines and PTSD caused by the needle stick incident and subsequent treatment, Dr. Brecher’s January 15, 2019 report indicated that Plaintiff’s PTSD symptoms related to the needle stick had “improved to the extent she is able to resume work,” and that her headaches had improved with medication. *Id.* at 00446.

Further, although Dr. Stewart opined that Plaintiff is permanently disabled from the needle stick incident and subsequent treatment, the Retirement Board has full discretion to place more weight on the independent medical opinions of Dr. Attiullah and Dr. Morgan over the opinion of Dr. Stewart and other evidence before it. *See Morse v. Employees Retirement System of City of Providence*, 139 A.3d 385, 393 (R.I. 2016) (holding that it is within the discretion of the Retirement Board to agree with a disagreeing physician).

In reviewing an administrative agency’s decision and considering questions of fact, the Court “may not substitute its judgment for that of the agency and must affirm the decision of the

agency unless its findings are clearly erroneous.” *Guarino*, 122 R.I. at 588, 410 A.2d at 428 (citing § 42-35-15(g)(5)). In this case, it is clear that the Retirement Board relied upon independent and competent medical evidence in its determination that Plaintiff is not physically or mentally incapacitated as a proximate cause of the needle stick incident while in the performance of her duty as a dental assistant. Although the Plaintiff has presented some evidence which indicates that the needle stick incident caused her injuries, the Retirement Board was fully within its discretion to rely upon the entire record before it, including Dr. Attiullah and Dr. Morgan’s opinions that Plaintiff’s injuries were not proximately caused by the needle stick incident.

Therefore, because the Retirement Board relied upon competent medical evidence in making its determination that the needle stick incident did not proximately cause Plaintiff’s injuries, this Court must refrain from substituting its judgment for that of the Retirement Board. *Id.* at 588, 410 A.2d at 428 (citing § 42-35-15(g)(5)); *see also Hammond v. Retirement Board of Employees Retirement System of Rhode Island*, No. C.A. 99-5791, 2000 WL 1273911, at \*2 (R.I. Super. July 24, 2000) (stating that “[w]hen more than one inference may be drawn from the record evidence, the Superior Court is precluded from substituting its judgment for that of the agency and must affirm the agency’s decision unless the agency’s findings in support of its decision are completely bereft of any competent evidentiary support”).

Accordingly, the decision of the Retirement Board is hereby affirmed, and Plaintiff’s appeal is denied.

## A

### **Plaintiff’s Workers’ Compensation Proceeding**

The Retirement Board is not bound by a determination made in the Plaintiff’s workers’ compensation proceeding. Plaintiff sets forth that she and the State of Rhode Island have a

Memorandum of Agreement which establishes that the cause of her disability was the needle stick incident. (Pl.'s Mem. of Law in Supp. of Compl., 2). Plaintiff states that this Memorandum of Agreement was filed with the Workers' Compensation Court and is part of the record. *Id.*

In *Rossi v. Employees' Retirement System*, 895 A.2d 106 (R.I. 2006), the plaintiff sustained severe injuries to her face after being struck by a heavy gate. *Rossi*, 895 A.2d at 108. Approximately one year after resuming work, the plaintiff filed an application to receive an accidental disability pension due to her condition worsening. *Id.* Although the plaintiff's application was denied by the Retirement Board, the Rhode Island Supreme Court outlined various retirement plans available to Rhode Island state employees: "[a]part from the state retirement system, employees who suffer work-related injuries also may qualify for workers' compensation benefits. However, workers' compensation is not intended as a substitute for retirement, and therefore the standards for receiving benefits are less demanding than the requirements for accidental disability." *Id.* at 112; *see also Tavares v. Aramark Corp.*, 841 A.2d 1124, 1128 (R.I. 2004) (causation standard for workers' compensation claims is less than proximate cause).

In this case, any determination made in the Plaintiff's workers' compensation proceeding does not control the Retirement Board's determination on accidental disability retirement because the standard for workers' compensation claims are less than proximate cause. Section 36-10-14 clearly states, in pertinent part, that an employee who files for accidental disability must establish that he or she is "physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident while in the performance of duty[.]" Section 36-10-14(a).

Therefore, because the standards for disability in a workers' compensation proceeding is less than proximate cause, the Retirement Board in this case properly discounted the evidence set forth by the Plaintiff regarding her workers' compensation proceedings.

## **IV**

### **Conclusion**

In conclusion, the Retirement Board properly relied upon competent medical evidence in making its determination that the needle stick incident did not proximately cause Plaintiff's injuries in accordance with § 36-10-14. Additionally, the Retirement Board was not bound by the Plaintiff's workers' compensation proceedings because the standard for a workers' compensation claim is less than proximate cause as required by § 36-10-14. Accordingly, the decision of the Retirement Board is hereby affirmed, and Plaintiff's appeal is denied.

Counsel shall confer and submit the appropriate order and judgment for entry.



**RHODE ISLAND SUPERIOR COURT**  
*Decision Addendum Sheet*

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**TITLE OF CASE:** Helen Reardon v. Employees' Retirement System of R.I.

**CASE NO:** KC-2021-0784

**COURT:** Kent County Superior Court

**DATE DECISION FILED:** July 14, 2023

**JUSTICE/MAGISTRATE:** Van Couyghen, J.

**ATTORNEYS:**

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**For Defendant:** Michael P. Robinson, Esquire  
Larissa Delisi, Esquire